

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANDREW J. MILLER,

Plaintiff,

vs.

No. CIV 10-171 WJ/LFG
consolidated with
No. CIV 09-1124 WJ/LFG

CITY OF ALBUQUERQUE, KEVIN ROWE,
CARLA PEREZ, MARIGRACE BARRERAS,
CHADWICK J. MELVIN, ROBIN S. HAMMER,
MARK L. DREBING, MUNOS WRECKER, INC.,
E&A KAP, INC. d/b/a TOWN & COUNTRY
TOWING, and DUGGER'S SERVICES, INC.,

Defendants.

**ORDER LIFTING STAY AND ESTABLISHING
CASE MANAGEMENT PROCEDURES**

THIS MATTER is before the Court *sua sponte*. On June 16, 2010, the Court entered an Order [Doc. 48], staying discovery and abating all deadlines in the Initial Scheduling Order, pending resolution of a Motion to Dismiss [Doc. 25] filed by a group of Defendants associated with the Office of the District Attorney (hereinafter referred to as the "DA Defendants").

That Motion to Dismiss was resolved on August 24, 2010 by Memorandum Opinion and Order [Doc. 61] entered by United States District Judge William P. Johnson, denying the motion but permitting the DA Defendants to renew it after Plaintiff filed his Amended Complaint. The Amended Complaint [Doc. 62] was filed on August 31, 2010. The DA Defendants filed an Answer [Doc. 68] to the Amended Complaint but, as yet, have not renewed their Motion to Dismiss.

Because the Motion to Dismiss has been resolved, the Court now lifts the stay of proceedings. The Court notes that Defendant E&A Kap, Inc. d/b/a Town & Country Towing has not yet been served with process, and Defendant Dugger's Services, Inc. has not yet filed an Answer

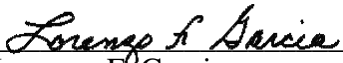
to the Amended Complaint.¹ Nevertheless, because the Plaintiff is incarcerated and Defendants are numerous, there is a high potential for the case becoming bogged down; therefore, the Court determines the usual pretrial procedures should be modified in this case. To that end, the following case management procedures will apply to all parties currently in the litigation.

IT IS THEREFORE ORDERED that the stay previously entered in this case [See Doc. 48] is hereby lifted.

IT IS FURTHER ORDERED that the parties are exempted from the meet-and-confer requirement of FED. R. CIV. P. 26(f), and the Court will not conduct a scheduling conference in this case.

IT IS FURTHER ORDERED that the parties will serve their initial disclosures pursuant to FED. R. CIV. P. 26(a) on or before December 20, 2010. The parties will prepare a Joint Status Report as set forth in the District's Local Rules, D.N.M.LR-Civ. 16.1, and will file it on or before December 31, 2010. After the filing of the Joint Status Report, the Court will enter a revised scheduling order setting pretrial and case management deadlines.

IT IS FURTHER ORDERED that the Clerk is directed to strike Acme Towing & Recovery, Inc. as a Defendant, as that entity has dismissed from this case with prejudice.



Lorenzo F. Garcia
United States Magistrate Judge

¹Defendant Acme Towing & Recovery, Inc. is also listed as a Defendant in the Amended Complaint; however, that Defendant was dismissed from the case with prejudice, and its counterclaim against Plaintiff was also dismissed. [Doc. 58].